(1)

(6)

SINGLE BENCH

C.F. 100/-

IN THE HIGH COURT OF CHHATTISGARH, AT- BILASPUR

WRIT PETITION (S) NO. 5486 OF 2006

PETITIONER : TULSI RAM CHAKRADHARI,
AGED – 44 YEARS,
SON OF LATE RAMU CHAKRADHARI
R/O VILLAGE – GHODARI,
P. O. – BIRKONI,
DISTRICT - MAHASAMUND (C. G.)

VERSUS

RESPONDENTS :

1. STATE OF CHHATTISGARH,
THROUGH – THE SECRETARY,
DEPARTMENT OF PANCHAYAT &
RURAL DEVELOPMENT,
D. K. S. BHAWAN, RAIPUR

2. THE COLLECTOR,
DISTT. – MAHASAMUND (C. G.)

3. SUB – DIVISIONAL OFFICER
(REVENUE) / PRESCRIBED
AUTHORITY, MAHASAMUND
DIST. – MAHASAMUND (C. G.)

4. D. L. VERMA
SUB – DIVISIONAL OFFICER
(REVENUE)/ PRESCRIBED
AUTHORITY, MAHASAMUND,
DISTT. – MAHASAMUND, (C. G.)

5. DEPUTY DIRECTOR,
PANCHAYAT & SOCIAL
WELFARE, MAHASAMUND
DISTT. – MAHASAMUND,(C. G.)

6. B. L. BHAGAT,
CHIEF EXECUTIVE OFFICER,
JANPAD PANCHAYAT,
MAHASAMUND (C. G.)

7. DEEPAK KUMAR KAIWARTYA
SARPANCH,
GRAM PANCHAYAT, GHODARI,
BLOCK - MAHASAMUND
DISTT. – MAHASAMUND (C. G.)

8. SHIV KUMAR KOSLE,
PANCHAYAT KARMI,
GRAM PANCHAYAT, GHODARI,
BLOCK – MAHASAMUND,
DISTT. – MAHASAMUND (C. G.)

P.R. No. 5496/06
Presented by Shri V. Gandharava
dated 6.10.06

C.F. 100/-

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COMMISSIONER
S.R. Kaushik
BILASPUR TAHSIL

(2)

Writ Petition Under Article – 226 & 227 of Constitution of India

XI-HC-78

(132)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

W.P.(C) No. 5486/2006

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

10.10.2006

Shri R.K. Kesharwani, counsel for the petitioner.

Shri Sandeep Yadav, Dy. Govt. Advocate for the State/respondents No. 1, 2, 3 & 5.

None for other respondents.

Arguments on admission heard.

Order dictated as follows:

ORAL ORDER
(10.10.2006)

SUNIL KUMAR SINHA, J.

Learned counsel for the petitioner submits that presently respondent No.7 is working as Sarpanch of Gram Panchayat-Ghodari, Block- Mahasamund, District- Mahasamund (C.G.) and respondent No.8 is the Panchayat Karmi of the said Gram Panchayat. His submission is that two proceedings vide Case No. 8-A/89-2002-2003 (Annexure-P/2) and Case No. 16-A/89-2005-2006 (Annexure-P/12) under Sections 40 and 92 of the M.P. (C.G.) Panchayat Raj Adhiniyam 1993 are pending before the S.D.O., who is the prescribed authority but the said officer is not taking any interest in the matter and both these matter have not been disposed of till date. His further submission is that the first case was instituted on 8.7.2002, whereas the second case was instituted on 14.7.2006. He refers to the first order-sheet of both these cases, which are filed as Annexures-P/2 & P/12. He also submits that for the present, this petition may be disposed of with

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.(C) No. 5486/2006 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

a direction that the concerned respondent should expedite the hearing of these cases at the earliest, so that the provisions of Section 40 (1) of the Act are complied with in its true spirit.

This limited prayer made by learned counsel for the petitioner is not opposed by learned counsel for the State.

The provisions of the Section 40 (1) of the Act would show that the State Government or prescribed authority may after such enquiry as it may deem fit to make at any time, remove an office bearer (a) if he has been guilty of misconduct in the discharge of his duties or (b) if his continuance in office is undesirable in the interest of the public. It further provided that no person shall be removed unless he has been given an opportunity to show cause why he should not be removed from his office. After explanation contained in this Section, a second proviso is also inserted by legislature with effect from 5.12.1997 which says that the final order in the enquiry shall, as far as possible, be passed within 90 days from the date of issue of show cause notice to the concerned officer bearer.

The underlying principle embodied in the second proviso to sub-section (1) appears to be that the proceedings against the officer bearers are to be completed rapidly and no inordinate delay should be caused in termination of the said proceedings. That is more so because the posts held by the elected officer bearers of Panchayat are the post related to time and if entire time of tenure

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

is consumed in continuing enquiry against them, then ultimately the tenure would terminate and enquiry initiated shall frustrate without getting much fruitful result.

In the facts and circumstances of the case, this limited prayer made by learned counsel for the petitioner is allowed.

It is directed that if the cases referred to above, pending before the S.D.O. have not been disposed of so far, Case No. 8-A/89-2002-2003 shall be disposed of within a period of two months from the date of receipt of certified copy of this order and Case No. 16-A/89-2005-2006 shall also be disposed of within a period to three months from the date of receipt of certified copy of this order by the said Court.

With the aforesaid observations, this petition stands finally disposed of at the motion stage itself.

No costs.

Sd/-
Sunil Kumar Sinha
Judge

vatti

13/10/07

P.T.O.